

From: Williams, Cheryl B.
Sent time: 07/31/2013 08:31:19 AM
To: Boyd, Andrew
Subject: RE: Referral to ORC - North Pole Refinery

Wonderful comments Andy....thanks.
I'll do some pondering and see what I come up with...Oh, they have been, to the best of my knowledge long time LQG that I believe has a 3008(h). I will however verify the last BRS and we can always ask a question in the 3007.

Cheryl

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From: Boyd, Andrew
Sent: Tuesday, July 30, 2013 4:24 PM
To: Williams, Cheryl B.
Subject: RE: Referral to ORC - North Pole Refinery

A few thoughts.

- Is it possible that this the facility may have been recycling or reclaiming this material in some way that might have exempted it from regulation as solid waste or hazardous waste (before the fire foreclosed that option)?
- Since generator status can change month to month, do we need to establish they were not a CESQG or SQG? CESQGs are exempt from training and from 265.31. SQGs are subject to a different rule on training – see 262.34(d)(5)(iii)
- To include 265.31 we need to be able to establish that facility was not maintained and operated to minimize possibility of fire. The fires certainly provide a good start on that, but probably need to seek evidence on how their operation/maintenance was deficient, particularly in event they contend the fires occurred despite their efforts to minimize possibility of fire?
- Since these are 262.34 conditions for operating without a permit rather than independent “requirements,” should we probe for any other 262.34 failures? Were the roll offs labeled and marked with accumulation start date (presuming not satellite accumulation), were they closed except when adding or removing waste?
- Should we request copies of the manifest and LDR notices/forms to evaluate compliance with manifest and LDR requirements? Fairly straightforward

I think the draft info request addresses many of these, but not all. Should we develop at least an outline of a compliance analysis to make sure the info request asks for all that we will need to bring a case should there be one to be made (identify elements we need to prove for potential violations and proof in hand [e.g. proof that the material is ignitable] and proof needed, as well any potential defenses we should consider addressing in info request)?

I can give the draft info request a closer look and provide comments but thought I'd start with “a few thoughts”

Your thoughts?

Andy
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FOR USE OF RECIPIENTS NAMED ABOVE

From: Williams, Cheryl B.
Sent: Tuesday, July 30, 2013 1:27 PM
To: Silver, Meg; Boyd, Andrew
Subject: RE: Referral to ORC - North Pole Refinery

Thanks Meg and Andy!

Andy. You got a copy of the draft 3007, yes?

I'll make a copy of the notice it is based on and get it up to you.

cw

Cheryl

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From: Silver, Meg
Sent: Tuesday, July 30, 2013 1:23 PM
To: Downey, Scott; Williams, Cheryl B.
Cc: Boyd, Andrew
Subject: RE: Referral to ORC - North Pole Refinery

Andy Boyd will handle this case for ORC. Thanks, Andy!

From: Downey, Scott
Sent: Monday, July 29, 2013 3:06 PM
To: Silver, Meg
Subject: FW: Referral to ORC - North Pole Refinery

Meg – here's the attorney request I mentioned to review an Information Request. Cheryl thinks this is a RCRA-only issue.

Scott Downey, Manager
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From: Williams, Cheryl B.
Sent: Monday, July 29, 2013 2:55 PM
To: Downey, Scott
Subject: Referral to ORC - North Pole Refinery

Scott,

By this e-mail I am asking that you request ORC support for the following case.

Background:

Earlier in the month we received a notice from the North Pole Refinery, owned by Flint Hills (North Pole, Alaska) that they had activated their contingency plan as required for LQGs (see 40 CFR 265.56(i)). The notice states that iron sulfide that was located in a roll off container spontaneously combusted (characteristic hazardous waste D001) and then a few days later re-ignited.

Although the Facility complied with the regulations to notify us, the fact that the generation of this waste stream is common in the industry and fires from this waste stream are a known danger - I am concerned that there may have been a lack of training or inadequate waste designation at the time of the occurrences. Therefore, I have drafted an information request (3007) to probe a bit at these questions. I believe there might be a violation of training requirements and also 265.31 which requires that facilities be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of a hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

I have sent an e-mail to the local fire department requesting incident reports related to these events.

Projected Level of Effort:

Up to 2 hours (in the short term) to read the Information Request and incident report and to discuss case and necessary evidence/appropriate response.

Because there were two sudden, unplanned releases of hazardous waste documented by the facility I believe that getting any additional information necessary for a penalty case should be fairly easy as RCRA cases go.

Purpose of the enforcement action would be to create a deterrent so that future fires will not happen.

Attached is a draft 3007 letter.

Jo: Please use this to document a NRR (today's date) in RCRA Info.

Cheryl

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